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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,947	10/14/2004	Chien-Li Hung	LITP0049USA	5946

  

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NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION		
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MERRIFIELD, VA 22116		

  

EXAMINER	
PHAM, VAN T	

  

ART UNIT	PAPER NUMBER
2627	

  

NOTIFICATION DATE	DELIVERY MODE
10/12/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

winstonhsu.uspto@gmail.com  
Patent.admin.uspto.Rcv@naipo.com  
mis.ap.uspto@naipo.com.tw

**Advisory Action**  
**Before the Filing of an Appeal Brief**

Application No.

10/711,947

Applicant(s)

HUNG, CHIEN-LI

Examiner

VAN T. PHAM

Art Unit

2627

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 26 September 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-12.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

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SUPERVISORY PATENT EXAMINER

Continuation of 3. NOTE: The amended of claim 1 changes the scope of claims 1-5 which raise new issues that would require further consideration and/or search.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments filed 09/26/2007 have been fully considered but they are not persuasive.

Applicant's asserted, "The Examiner recited that this rejection is made because the response on 4/25/2007 Applicant admitted that "the laser beam of the first wavelength and the laser beam of the second wavelength are emitted from an optical pick-up head" is illustrated in the block diagram of Figure 2" and "Figure 4 illustrates that S-curves are created when the laser beams of the first and second wavelengths are emitted", and the drawings are labeled as Prior Art. By accepting the drawings 2 and 4, the admitted prior art discloses all the limitations of claims 1-12. However, in the first response to the non-final Office Action, Applicant just wants to emphasize that the optical pick-up head can emit laser beams of different wavelengths. Further, Fig. 2 is the partial block diagram of the optical disk drive and Fig. 4 is the diagram of S-curves. Moreover, the S-curves in Fig. 4 are generated by the same laser beam. Therefore, in order to avoid confusing, Applicant submits the new sheet of the drawing to show the features of the claimed invention that the optical pick-up head emits two laser beams of different wavelengths", which is not enough to prove that the Admitted prior art does not disclose all the claims 1-12. also, by submitting the new drawings 6, shows that a laser diode of an optical pick-up head can emit two laser beams of different wavelengths and generate the predetermined signals by the two laser beams, which can't overcome the rejection of 102 (a). (see the Final rejection mailed on 6/26/2007).

Moreover, Applicant's asserted, "Chen et al. does not teach the use of emitting two laser beams of different wavelengths from the same pick-up head for determining whether a disk is inserted into an optical disk drive", which is incorrect. Chen et al. discloses "the structure of the loaded optical disc could be identified as a CD or DVD, or as single layer or dual-layer according to a focusing error (FE) signal derived from the detection signal.... On the other hand, the optical disc device might recognize the loaded disc as a CD or DVD by means of the waveforms of s-curves since the distance between the reflection layer and data layer of CD is usually larger than that of the DVD (see Chen et al. [0004]). Therefore, it has to have two different wavelengths for CD and DVD.

Drawings:

The drawing was received on 9/26/2007, which is acknowledged.



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